JUDGE FURMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ISLAMIC COMMUNITY CENTER FOR MID WESTCHESTER, MOHAMMAD ZUBER NAKADAR, OMAR OCKEH, ARSHAD SHARIFF, SYED KAMAL, ALI NAWAZUDDIN, MOHAMMED SOHAIL, ALI EL-OUSROUTI, FAVZUL KABEER, ISMET JASHARI, and MOHAMMED RAHEEM **Plaintiffs,** **vs.** **CITY OF YONKERS LANDMARK PRESERVATION BOARD; THE CITY OF YONKERS PLANNING BUREAU, aka CITY OF YONKERS PLANNING BOARD; THE CITY OF YONKERS; MAYOR MICHAEL SPANO in his official capacity as Mayor of the City of Yonkers; LIAM J.MCLAUGHLIN, DENNIS SHEPHERD, MIKE BREEN, and JOHN LARKIN in their official capacity as members of the City of Yonkers City Council; and GORDON A. BURROWS, in his official capacity as a District County Legislator in the City of Yonkers.** **Defendants.**	**Civil Action** **No.** 16 CV 7364 **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF, AND DEMAND FOR JURY TRIAL** RECEIVED SEP 21 2016 U.S.D.C. S.D. N.Y. CASHIERS

Plaintiffs Islamic Community Center for Mid Westchester, a New York not-for-profit corporation, Mohammad Zuber Nakadar, Omar Ockeh, Arshad Shariff, Syed Kamal, Ali Nawazuddin, Mohammed Sohail, Ali El-Ousrouti, Favzul Kabeer, Ismet Jashari and Mohammed Raheem, by and through their counsel, commence this action to redress violations of their civil rights caused by Defendants' burdensome, discriminatory, unreasonable and intentional conduct which have prohibited and continue to prohibit the Plaintiffs from renovating their property to make it a fully functional Mosque, bearing all relevant religious characteristics in violation of 42 U.S.C.§ 1983, the Religious Land Use and Institutionalized Persons Act, 42 § 2000cc et seq. ("RLUIPA"), the New York Law Against Discrimination and the United States and New York Constitutions. Plaintiffs seek damages, declaratory relief and injunctive relief as follows:

PRELIMINARY STATEMENT

1. The Islamic Community Center for Mid Westchester (hereinafter referred to as "ICCMW") is a Religious Non-Profit organization in Westchester County, New York. ICCMW was formed by a diverse group of Muslims living in Westchester, Yonkers, New York. For a couple of years ICCMW had been trying to locate a suitable property to establish a Mosque where Muslims can gather to perform prayers and other religious activities. ICCMW members, like other residents of Yonkers, represent many ethnicities, cultural backgrounds and professions. They are united in their Muslim faith and their desire to worship together and provide religious education and other services to their community of faith in their home community.

2. ICCMW finally found such a location, at 20 Grandview Boulevard, Colonial Heights, City of Yonkers, New York, 10710-3002 (hereinafter interchangeably referred to as "the property" or "ICCMW's property"). The property was constructed in 1908, and is in desperate need of repairs. Before ICCMW purchased it, the property had been on the market for over three years. Due to the deteriorating condition of the property, banks refused to offer mortgages. ICCMW, however, was able to raise funds from its congregants and purchase the property.

3. ICCMW purchased the property because it was within their budget, and met their needs for a prayer area. The property is located in a site with S-100 zoning, which permits both residential use and house of worship use.

4. Between April and July 2015, in preparation to undertake renovations on the property, ICCMW identified and retained an architect and a land use attorney. ICCMW members were aware that the property would require additional parking spaces for Friday religious services. In July 2015, ICCMW reached out to St John's Episcopal Church, located across the street from its property and requested to use some of the Church's parking spaces.

5. As soon as ICCMW informed the City officials and the neighbors about its intention to build a Mosque, they were faced with denials, warnings and discrimination which led to landmark designation.

6. Colonial Heights Association of Tax Payers (hereinafter referred to as "CHAT") submitted an application to the City of Yonkers Landmark Preservation Board (hereinafter referred to as "The Landmark Preservation Board") to get ICCMW's property designated as a landmark. The Landmark Preservation Board held public hearings to discuss CHAT's application. Despite the hearings being mired by anti-Muslim prejudice, on April 6, 2016, the Landmark Preservation Board unanimously voted and recommended the designation of ICCMW's property as a landmark to the City of Yonkers, City Council.

7. The Landmark Preservation Board relied upon the Recommendation given to it on January 13, 2016, by the City of Yonkers Planning Board (hereinafter interchangeably referred to as "The Planning Board" or "The Planning Bureau") recommending the landmark designation of ICCMW's property since the area already has three other religious institutions.

8. The City Council held two public hearings both mired with anti-Muslim prejudice, anti-Muslim sentiment and hysteria.

9. In what to date has constituted the speediest landmark designation of a property in the City of Yonkers, its City Council voted along political party lines to designate ICCMW's property as a landmark on May 24, 2016.

10. On May 27, 2016, the Mayor of the City of Yonkers approved the designation.

11. On May 31, 2016, the City of Yonkers City Clerk attested to the resolution designating ICCMW's property as a landmark.

12. On June 1, 2016, the resolution designating ICCMW's property as a landmark, Resolution No.64-2016, was docketed with the City of Yonkers Clerk's Office.

13. The landmark designation is a pretext to discriminate against Plaintiffs because of their religion, their religious practices and against their religious institution.

14. The landmark designation imposes an undue burden on the free exercise of Plaintiffs' religion and the establishment of their religious institution. The landmark designation severely restricts the nature and type of renovations ICCMW can undertake on its property. The landmark designation denies ICCMW the right to have a house of worship bearing all relevant Islamic characteristics.

15. Defendants have discriminated against Plaintiffs on the basis of religion and have placed substantial burdens on their free exercise of religion. In doing so, Defendants violated Plaintiffs' federal and state constitutional and statutory rights, including rights under the First and Fourteenth Amendments to the United States Constitution, the federal Religious Land Use and Institutionalized Persons Act, the New York Constitution, City procedural and substantive law governing land use, and the New York State prohibitions on discrimination. Plaintiffs seek declaratory and injunctive relief and damages to redress the unlawful conduct and discriminatory practices in which Defendants engaged.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and(a)(4), 1367, 42 U.S.C. § 2000cc et seq., and 42 U.S.C. § 1983, which confer original jurisdiction on federal district courts in suits to redress the deprivation of rights, privileges and immunities secured by the laws and Constitution of the United States, particularly the First and Fourteenth Amendments to the Constitution of the United States, and the Religious Land Use and Institutionalized Persons Act of 2000 and the Fair Housing Act.

17. This Court has jurisdiction over the request for declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction over all state law claims under 28 U.S.C. § 1367(a).

18. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b). Defendants and Plaintiffs are located in this district. All acts and transactions complained of occurred and continue to occur in this District.

THE PARTIES

19. Plaintiff ICCMW is a Religious Non-Profit organization in Westchester County, New York. It was established in March 2012 to serve the Muslim community in the Mid-Westchester area. The community comprises a diverse ethnic and cultural group. Its members are engaged in many professions and occupations - doctors, engineers, financial officers, midwives, teachers, small business owners and construction managers. ICCMW and its members seek to establish a permanent Mosque to serve the needs of their Muslim community. In addition, the proposed mosque would serve the needs of those Muslims who are employed in Colonial Heights area who otherwise would find it very difficult to attend the important Friday mid-day prayers.

20. Plaintiff Mohammad Zuber Nakadar, is a Muslim, a founding member and current Board member of ICCMW. He resides in Yonkers with his wife and three children. Dr. Nakadar is the director of lab operations, surgical pathology at Icahn School of Medicine, at Mount Sinai Hospital, New York, New York.

21. Plaintiff Omar Ockeh, is a Muslim, a founding member and current Board member of ICCMW. He resides in Yonkers with his wife and five children. Mr. Ockeh is an engineer and certified construction manager.

22. Plaintiff Arshad Shariff, is a Muslim, a founding member and current Board member of ICCMW. He resides in Yonkers with his wife and three children. Mr. Shariff is a mechanical engineering manager and certified project manager.

23. Plaintiff Syed Kamal, is a Muslim, a founding member and current Board member of ICCMW. He resides in Yonkers with his wife and three children. Mr. Kamal is the Chief Financial Officer at GER Industries Inc.

24. Plaintiff Ali Nawazuddin, is a Muslim, a founding member and current Board member of ICCMW. He resides in Yonkers. Mr. Nawazuddin is a chemical engineer, and management consultant specializing in strategy, program and project management.

25. Plaintiff Mohammed Sohail, is a Muslim, a founding member and current Board member of ICCMW. He resides in Yonkers with his wife and two children. Mr. Sohail is a Computer Aided Design manager at an engineering company.

26. Plaintiff Ali El-Ousrouti is a Muslim, a founding member and current Board member of ICCMW. Mr. El-Ousrouti is a software engineer and technical manager. He has also served as an adjunct professor at Westchester College.

27. Plaintiff Favzul Kabeer, is a Muslim, a founding member and current Board member of ICCMW. He resides in Beech-hill, Yonkers, New York with his wife and four children. Mr. Kabeer is the vice president of vision phone cards in the Bronx and a scholar on Islamic studies.

28. Plaintiff Ismet Jashari, is a Muslim, and Board member of ICCMW. He resides in Yonkers with his wife and three children. Mr. Jashari is the owner of a construction company and a licensed general contractor.

29. Plaintiff Mohammed Raheem, is a Muslim, and Board member of ICCMW. He resides in Yonkers with his wife and four children. Mr. Raheem is a healthcare senior project portfolio manager.

30. Each of the individual Plaintiffs described above now engages in the practices of the Islamic faith, including such practices as regular prayer services, special holiday services, the giving of sermons and providing religious instruction to children at distant locations. Each Plaintiff seeks a facility in the Colonial Heights area bearing all relevant Islamic characteristics at which each, together with his or her family and other members of the Muslim community can attend prayer services and offer religious education classes.

31. Defendant City of Yonkers Landmark Preservation Board is a government agency of the City of Yonkers. The Landmark Preservation Board members are appointed by the Mayor, subject to confirmation by the City Council.

32. Defendant City of Yonkers Planning Bureau/Planning Board is a government agency of the City of Yonkers. The Planning Board members are appointed by the Mayor, subject to approval by the City Council.

33. Defendant City of Yonkers is a City in New York State.

34. Defendant Mayor Michael Spano is the Mayor of the City of Yonkers, and is named in his official capacity held at all times relevant to this lawsuit including at the commencement of this action in September 2016.

35. Defendant Liam J. Mclaughlin is a Republican member of the City of Yonkers City Council, and current Council President. He is also the chair of the City Council Rules Committee. Defendant Mclaughlin is named in his official capacity held at all times relevant to this lawsuit including at the commencement of this action in September 2016.

36. Defendant Dennis Shepherd is a Republican member of the City of Yonkers City Council, representing the 4th District. Defendant Shepherd is named in his official capacity held at all times relevant to this lawsuit including at the commencement of this action in September 2016.

37. Defendant Mike Breen is a Republican member of the City of Yonkers City Council, representing the 5th District, which encompasses Colonial Heights. Defendant Breen is named in his official capacity held at all times relevant to this lawsuit including at the commencement of this action in September 2016.

38. Defendant John Larkin is a Republican member of the City of Yonkers City Council and the Council's Majority Leader. He is also the Chair of the City Council Real Estate Committee. Defendant Larkin is named in his official capacity held at all times relevant to this lawsuit including at the commencement of this action in September 2016.

39. Defendant Gordon A. Burrows is a Republican Legislator and Minority Whip, of the Westchester County Board of Legislators. He represents District 15, which encompasses Yonkers and Bronxville. Defendant Burrows is named in his official capacity held at all times relevant to this lawsuit including at the commencement of this action in September 2016.

STATEMENT OF FACTS

40. Muslims residing in Mid-Westchester area established ICCMW in March 2012. As there is no Mosque conveniently located in the area, ICCMW started seeking a suitable location to establish a permanent Mosque and Islamic Center.

41. ICCMW serves members of the community who adhere to the Islamic faith. A Mosque, such as the one they wish to build on the Property, serves as the cornerstone of Muslim faith and community. It is a place of communal prayer. Friday is the Muslim holy day, and the Friday noon prayer is the most important communal prayer. Special communal prayers also take place in the evenings during the fasting month of Ramadan, and prayer services are an essential part of the twice-yearly Eid Holiday celebrations. Communal prayers are also observed as part of Islamic funeral services. The Mosque is not only a house of worship. It is also a most critical institution through which Muslims educate themselves and their children in the tenets and practice of Islam. The Mosque serves as the focus for the community's social, educational, and recreational activities. It also provides a place for people curious about the religion and for all believers, children and adults to learn about Islam from a knowledgeable and reputable source.

42. The Mosque also serves to hold and organize interfaith events with other religious entities to establish dialogue and understanding.

43. In April 2013, ICCMW identified a property listed for sale at 20 Grandview Boulevard, Colonial Heights, City of Yonkers, New York 10710-3002. ICCMW representatives visited the property. The property was not in a livable condition. The house was falling apart and needed extensive repairs. However, the asking price was within ICCMW's budget, and the property met their needs for a prayer area.

44. The initial asking price on the property was one million dollars, ICCMW countered with an offer of $800,000. The seller did not accept ICCMW's offer initially, however, several months later in October, 2013, he reached out to ICCMW accepting their offer.

45. On October 22, 2013, Plaintiff Omar Ockeh had a meeting with attorney Camille Singh and the Commissioner for the Department of Housing and Buildings for the City of Yonkers, William Schneider and the Director of the City of Yonkers Planning Bureau, Lee Ellman to make sure ICCMW can use the property as a Mosque.

46. At that meeting, the Department of Housing and Buildings and the Planning Bureau assured ICCMW that the property could be used for a house of worship without any particular limitation. They, however, cautioned ICCMW to meet with the Colonial Heights Association of Tax Payers ("CHAT"), a local group, which claims to represent the tax payers of Colonial Heights, as they have a history of opposing religious projects like ICCMW's.

47. After Mr. Ockeh's October 22, 2013 meeting, Plaintiff Ali Nawazuddin called CHAT office and spoke to Terry Lucadamo. She told him that she was already aware of ICCMW's interest in buying the property on 20 Grandview Boulevard. She also told Mr. Nawazuddin, that ICCMW will face opposition from neighbors if they go ahead with the purchase and plans to establish a Mosque. She asked ICCMW to look for properties in other areas instead. Mr. Nawazuddin requested an in person meeting with CHAT. Ms. Lucadamo said she will get back to him. Mr. Nawazuddin, made several follow-up requests for an in person meeting, but CHAT never returned his calls. It became clear that Ms. Lucadamo and CHAT generally did not want to meet with ICCMW.

48. To finance the purchase of the property, ICCMW applied for a loan with UIF bank. On August 5, 2014, the bank gave ICCMW a commitment letter. The bank then proceeded to

appraise the property. Upon completion of the appraisal the bank issued a report on September 12, 2014. The report appraised the property at $585,000. The report also noted the possibility of structural issues and mold. The report went further to note that the “subject although lived in currently may not be livable in its current condition." UIF withdrew it previous commitment letter, informing ICCMW that the reported condition of the building is such that UIF will not provide financing for 20 Grandview Boulevard.

49. Following the bank’s refusal to finance the purchase of the property, ICCMW fundraised from its congregation. On March 27, 2015, with the assurances from Department of Housing and Buildings and the Planning Bureau that religious use of the property is permitted, ICCMW purchased 20 Grandview Boulevard for $750,000 to build a Mosque.

50. In November 2013, Plaintiff Arshad Shariff approached a local architect to start reviewing what ICCMW wanted to do on the property to make it a functional Mosque. The architect was excited to work on the project. He visited the property a couple of times and gave ICCMW initial price quotes. After ICCMW closed on the property, in April 2015, Mr. Shariff reached out to the architect again to resume the conversation started in 2013. The architect was still eager to work with ICCMW. He began checking on the City’s requirements for ICCMW to use the property as a Mosque. However, soon thereafter the architect informed ICCMW that due to the modification restrictions and the multiple zoning variance and planning approval meetings ICCMW would be subjected to, he is unable to assist them. Upon information and belief, ICCMW members realize now that the architect was aware of the future challenges ICCMW would be facing, which would unnecessarily burden its ability to build its Mosque. Therefore, he declined to continue representing them.

51. In July 2015, ICCMW retained Thomas Haynes as ICCMW's architect. In August 2015, it retained the law firm of Veneruso, Curto, Schwartz, and Curto, LLP as ICCMW's land use law attorneys.

52. Being aware that they would require additional parking spaces for Friday religious services, on July 9, 2015, ICCMW reached out to St John's Episcopal Church, located right across the street from their property, requesting a meeting with Church's leaders. On July 28, 2015, ICCMW Board members met with the Head Priest Mother Kristin Kopren & other Church Vestry members. During the meeting ICCMW requested permission for its congregants to use the church's parking lot during Friday religious services and Friday evenings. They also discussed how they can build an interfaith relationship and work together on humanitarian causes. On October 8, 2015, St. John's Episcopal Church agreed to grant ICCMW a license to use 20, out of the church's 24 parking spaces for ICCMW's Friday religious services and Friday evenings as requested. The church agreed to grant ICCMW the parking spaces free of charge.

53. On September 19, 2015, ICCMW held a meet and greet at St. John's Episcopal Church. ICCMW extended an invitation to all residents of and organizations in Colonial Heights, including CHAT. Approximately 40 people attended the meet and greet. Plaintiff Ali El-Ousrouti gave a short speech during which he spoke about ICCMW and its future plans. At the end of his presentation, ICCMW opened the floor for questions. Some of the questions asked were, whether ICCMW will use loud speakers to call for prayer and asked about the frequency of the religious services. Other questions were whether an Imam will live in the property. Some neighbors expressed concern that a large number of people will show up on Fridays for prayer. They said that the parking lot will change the appearance of the property, and that ICCMW will be creating traffic congestion.

54. Upon information and belief, there was one group of attendees who were hostile in the manner with which they asked their questions. Upon information and belief, that group comprised of members of CHAT. CHAT is the organization the City officials mentioned had a history for opposing projects like ICCMW's religious institution. It was also CHAT's, representative, Ms. Lucadamo, who told ICCMW Board member, Mr. Nawazuddin, that ICCMW should look for another location to build its Mosque.

55. CHAT accused ICCMW of not being sincere about its intended use of the property at the time of purchase. They said that ICCMW bought the property secretly for a very low price with the intent to establish a religious facility, as if such intent was immoral or illegal. They went on to state that ICCMW was offering prayer services without a permit.

56. Other attendees said if ICCMW establishes a Mosque with its religious characteristics, it will change the look of the neighborhood. They further said, because ICCMW is a tax exempt organization, ICCMW is in effect decreasing the town's tax revenue and diminishing the neighborhoods property value. They told ICCMW that there were already too many places of worship on the same street. Strangely some CHAT members wanted to know if ICCMW will have prison rehab in the premises. ICCMW assured them that it has no plans for a prison rehab. ICCMW made every attempt to answer all questions raised by the meet-and-greet attendees. However, after the meeting ICCMW learned that some neighbors continued to spread rumors that ICCMW plans to have prison rehab in its property and that ICCMW will completely demolish the property and build a Mosque with minarets.

57. A lady at the meet-and-greet said she will not have a problem if a Muslim family lives in the property. However, she will have a problem if the property is used as a Mosque. ICCMW

continued to receive such hostile sentiments and outright animus after the meet-and-greet. The hostile sentiments and veiled comments continue to date. [1]

58. On September 16, 2015, three days before the meet-and-greet, two officials from the Buildings Department inspected ICCMW's property based on a complaint they had received from the neighbors that the premises was being used as a house of worship. Plaintiff Arshad Shariff met with the two inspectors, Lawrence Donohue and Joseph Haduck for the inspection. Following their inspection, the two City officials confirmed that contrary to the complaints they found the premises empty and vacant.

59. Other incidences of animus and hostility towards ICCMW and its members have included an incident in January 29, 2016, where the local police came to ICCMW's property and asked the members there if anyone had called the police. The police officers said that they had received a call to come to the property. However, the police officers did not disclose to ICCMW's members the reason why they had been asked to respond to the property. In addition to the visit from the local police, some ICCMW members have noticed that people left dog waste near the property on several occasions. Other ICCMW members have noticed people looking at them suspiciously as they walked by the property. Some ICCMW members have also complained about people driving by the property menacingly. One member in particular had derogatory curse words said to him by a stranger driving by the property.

[1] For instance comments such as – ICCMW's intent is to convert people to Islam or kill them. Or that ICCMW is an ISIS recruitment center have been voiced by people online as comments to an article by News 12 Westchester dated May 25, 2016, entitled "Muslim community plans to fight for proposed Mosque."

60. On October 5, 2015, Plaintiff Ali Nawazuddin received a phone call from journalist Ernie Garcia of The Journal New inquiring about a landmark application submitted by CHAT, to landmark ICCMW's property.

61. CHAT filed three separate applications with the City of Yonkers Landmark Preservation Board to landmark ICCMW's property. CHATs first application was submitted in June 2015. CHAT supplemented the June 2015 application with a second one dated September 22, 2015. Thereafter CHAT amended their September 2015 application with another dated October 27, 2015.

62. While submitting Chat's second application to the Landmark Preservation Board, CHAT's Co-chair Neil Breen, said the reason CHAT decided to put in the application was because CHAT became aware that ICCMW intended to change the use and occupancy to a house of worship which will change the character of the neighborhood.

63. CHAT's second application was a desperate attempt to show that the property met one of the four required characteristics for landmark designation. It tried to link the house to a historic figure. The application erroneously (stated, "the building may be the work of William Winthrop Kent." However, the same application specifically stated that "there are no known historic events or historic persons associated with the house." On October 27, 2015, CHAT in its persistent and desperate attempt to prevent ICCMW and its congregation from building its religious institution filed additional information amending the September application. The October application, instead argued that prior owners and occupants of the house (property) were significant persons.

64. CHAT's amended October 27, 2015, application was first considered at the November 4, 2015, Landmark Preservation Board hearing. In attendance at the November 4th Landmark

Preservation Board hearing at CHAT's behest were three Yonkers Republican legislators. They were Defendant Gordon Burrows - Republican Legislator and Minority Whip of the Westchester County Board of Legislators, Defendant John Larkin – a Republican member of the City of Yonkers City Council, and the Council's Majority Leader and Defendant Michael Breen - Republican member of the City of Yonkers City Council, representing the 5th District which encompasses Colonial Heights.

65. At the hearing Defendant and Legislator Burrows, a resident of Colonial Heights, the neighborhood where ICCMW's property is located, spoke in favor of designation ICCMW's property as a landmark, and mentioned how his office had worked with CHAT representatives on their application. The issue was adjourned for further discussion until the December 2, 2015 meeting of the Landmark Preservation Board.

66. At the December 2, 2015 Landmark Preservation Board hearing, ICCMW, through its land use attorney, submitted a letter which demonstrated the deficiency in CHAT's application. However, the Landmark Preservation Board, while it deemed the letter it received from ICCMW attorney important, considered it not generic to the hearing and simply just put it on the record without giving an opportunity to ICCMW to present its position during the hearing. The Landmark Preservation Board approved CHAT's' application as complete and referred it to the Planning Board for an advisory recommendation and advice pursuant to § 45-5D of the Yonkers City Code.

67. On January 13, 2016, Defendant City of Yonkers Planning Board issued its advice and recommendation to the Landmark Preservation Board, to landmark the property. In an egregious and blatantly discrimination statement, the Planning Board found there was no need for another house of worship as there were already enough religious institutions in the area. Therefore, it

deemed the landmarking ICCMW property would not cause any undue hardship to the members of ICCMW as they have other choices.

68. On February 3, 2016, the Landmark Preservation Board held the first public hearing on the designation of ICCMW's property. Representatives from CHAT spoke to the historic relevance of the house and expressed varying sentimental attachments to the property. However, none of CHAT's arguments satisfy the four characteristic requirements for landmark designation, as required by § 45-2 of the City of Yonkers Landmark Ordinance. Members of the public also addressed the Landmark Preservation Board. From the comments made by the non-Muslim population, it was evident that they did not want a Muslim house of worship in their neighborhood. A CHAT representative said "[w]e don't want another house of worship" (referring to ICCMW intent to convert the house into a Mosque). "We want it to stay a single-family home". Another member said they were gung ho about landmarking the property to prevent the opening of a Mosque.

69. Land use counsel for ICCMW spoke at the February 3, 2016, hearing. He argued that while the beauty of the house can be appreciated, the property, however, fails to possess or satisfy the required statutory requirements for landmark designation pursuant § 45-2 of the Ordinance, ("(1) associated with persons or events of historic significance; (2) Is illustrative of historic growth and development; (3) Embodies distinctive characteristics of a type, period or method of construction or represents the work of a master; (4) Contains unique architectural, archaeological or artistic qualities.")

70. ICCMW counsel argued that ICCMW's property might be beautiful, but contains no unique architectural, archaeological or artistic qualities to merit landmark designation, nor is it illustrative of historic growth or development of the City. While ICCMW's land use counsel

was making his presentation, CHAT and their supports, started booing, and a person in the crowd shouted “bullshit”.

71. ICCMW members also addressed the Landmark Preservation Board. They gave an overview of who ICCMW was and how they ended up acquiring the property. They gave statistics on the growth and expansion of the Muslim population in Yonkers, and how the Muslim population had no registered place of worship in which to exercise their First Amendment right. They also made their own statement, countering and opposing CHAT’s application. They questioned why there was a sudden interest in the property, while for years prior to ICCMW’s purchase it was allowed to fall into disrepair. Prior to ICCMW’s purchase of the property it had stayed on the market for three years and the selling price had dropped from 1.25 million to $750,000. Throughout the hearing the CHAT supporters continued their booing, interrupting ICCMW’s presentation, and trying to bully ICCMW.

72. Upon information and belief, the landmark designation became relevant when neighbors expressed dismay with ICCMW leaders intent to build a Mosque at the September 2015 meet-and-greet. Since then, there was a calculated campaign championed by CHAT. The public officials of the City of Yonkers supported the campaign leading to the Landmark designation. The Landmark designation is a pretext used to prevent ICCMW, its members and its congregation from building a Mosque. Upon information and belief, the City of Yonkers became aware of CHAT’s attempts to prevent ICCMW from setting up a religious establishment before October 27, 2015, when CHAT sought assistance from the City of Yonkers legislator Defendant Gordon Burrows’ office with CHAT’s third application to Landmark ICCMW’s property.

73. Upon information and belief Defendant Landmark Preservation Board simply succumbed to pressure to unnecessary burden and prevent ICCMW from building a Mosque bearing relevant religious characteristics. Since house of worship is a permitted use Colonial Heights pursuant to the local zoning ordinance S- 100, the only justification Defendants had to prevent a Mosque from being established was to designate the ICCMW's property as Landmark.

74. On April 6, 2016, the Landmark Preservation Board incorrectly found that the house was illustrative of growth and development of the city and had unique architectural qualities. The Board's decision was used as a pretext because it was based on the beauty of the house and not the provisions in § 45-2 of the Landmark Preservation Ordinance. Angie Piwinski, a member of the Landmark Preservation Board, acknowledged that there are other homes which are illustrative of growth and development of the city, which begs the question, why those homes were not landmarked?

75. In spite of the insufficient evidence, on April 6, 2016, the Landmark Preservation Board in an unprecedented unanimous vote targeted ICCMW, a religious institution, by recommending the designation as a local landmark all of Block: 4600; Lot: 114 of the property known as 20 AKA 2 Grandview Boulevard (ICCMW's property).

76. Gradually ICCMW and its members started noticing and receiving messages of outright animus towards them. During a parent teacher association meeting at Khalil Jibran Elementary School in March 2016 CHAT members were saying that they will do their best to stop the Mosque at 20 Grandview Boulevard from being built and that they will go after individuals who are supporting ICCMW. Another CHAT member stated she was researching on that Queens guy, (referring to Omar Okech. Omar Okech had moved from Queens to Colonial Heights) and

will try to get him. Nancy Anne Heran a member of CHAT and other CHAT members were still telling people that ICCMW intends on having a prison rehab center on the property.

77. CHAT members had been approaching non-Muslim neighbors of the community asking for signatures in support of landmarking ICCMW's property. CHAT members were asking neighbors questions such as: "Do you want a Mosque in your neighborhood?"

78. Upon information and belief, CHAT had been showing pictures of a generic Mosque structure to the non-Muslim population. The pictures had a Mosque complete with minarets. CHAT stated that the pictures were indicative on how the ICCMW's Mosque will look if ICCMW was allowed to build it.

79. Upon information and belief, parishioners from St. John's Episcopal Church, received threats. The threats were related to the Church' support of ICCMW's intent to build its Mosque.

80. In the course of the proceedings before the Landmark Preservation Board the Westchester Coalition Against Islamophobia (hereinafter referred to as "WCAI"), the Council on American–Islamic Relations ("CAIR"), the Neighborhood Interfaith Conversation group, St. John's Episcopal Church, other organizations and religious institutions came to ICCMW's aid after learning of ongoing discrimination towards ICCMW.

81. Upon information and belief, the Commissioner for the Department of Housing and Buildings and the Director of the Planning Bureau were aware of the potential discrimination when they warned ICCMW on October 22 2013, about CHAT's effectiveness in opposing religious institutions, - CHAT has a pattern of opposing issues concerning Minorities and follows the Not in My Back Yard (NIMBY) philosophy. CHAT had previously opposed renovations to a Jewish school, and also opposed housing desegregation in the City of Yonkers in 1992.

82. On March 29, 2016, Charles Chesnavage, the President of WCAI, as part of his work with the Coalition against Islamophobia, spoke to the Westchester County Board of Legislators. He warned against a resolution to designate ICCMW's property as a Landmark as condoning acts of Islamophobia in Westchester County. In response Defendant and Republican Legislator Gordon Burrows claimed that the problem was that ICCMW, at the time of purchasing the property, did not disclose the purpose for which they were purchasing the house. Upon information and belief, Defendant Burrows' statement suggest, that ICCMW's property would not have been designated as a landmark if it was not going to be used as a religious institution. The legislator's statement was the same one CHAT made during the meet-and-greet in paragraph 55 above.

83. Defendant Burrows is a resident of Colonial Heights, where ICCMW's property is located. Defendant and Legislator Burrows, had his office assist CHAT with their third application to landmark ICCMW's property. Defendant and Legislator Burrows on October 27, 2015, spoke in favor of designating the property as a landmark, based on the beauty of the house. Upon information and belief Defendant Burrows did not want a Mosque in his neighborhood.

84. Charles Chesnavage, the President of WCAI, in an effort to assist ICCMW, reached out to Republican and Democratic members of the City of Yonkers, City Council and the Mayor of the City of Yonkers, requesting a meeting to discuss the discrimination and prejudice ICCMW was being subjected to. The meetings were also requested in the hope that the Mayor and City Council would not perpetuate the discrimination championed by CHAT.

85. As a result of these requests, ICCMW members and their supporters met with Democratic Councilmen Michael Sabatino and Christopher Johnson on April 21, 2016. On May 3, 2016, they met with Democratic Council Members Michael Sabatino, again, and Corazon Pineda Isaac.

At both meetings, they discussed the proceedings before the Landmark Preservation Board. The Council Members were surprised that the Board voted unanimously and recommended the landmark designation of ICCMW's property. The Council Members expressed their support for ICCMW and urged ICCMW to meet with their local Councilman, Defendant Mike Breen.

86. On April 27, 2016, ICCMW Board members and their supporters met with Defendant Mayor Spano. They explained to the Mayor how the Muslim population in Yonkers has grown over the last forty years and why it was important for them to have a place of worship. ICCMW explained the precautions it had taken and diligence exercised before purchasing the property. Plaintiffs stressed that they lived in Yonkers, pay taxes there, their children go to school in Yonkers and they are part of the economic growth of Yonkers, yet they are not allowed to, practice their religion, by having their own place of worship in Yonkers. They told the Mayor that they have to travel for miles to go to nearest Mosque.

87. Charles Chesnavage, the President of WCAI pointed out to the Mayor, CHAT's pattern of opposing issues concerning minorities. He asked the Mayor to stop discrimination against ICCMW, especially because the property is located in his neighborhood. Zead Ramadan of CAIR told the Mayor that CHAT's tactic to perpetuate segregation was not unique or unknown to the Muslim community. These pretexts were widely used by other people and organizations countrywide to impede the building of Mosques, and urged the Mayor not to let the same happen in his City.

88. On May 3, 2016, ICCMW members met with Republican Council Member, Defendant Mike Breen. Defendant Breen is also the Councilman for Colonial Heights, where the ICCMW property is located. The May 3, 2016, meeting was meant to involve other supporters of ICCMW, but the day before the meeting Defendant Breen sent an email expressing his

discontent with the request for other participants at the meeting and said that a "Dog and Pony show" is not needed at the moment.

89. To make sure that only ICCMW members were present at the May 3, 2016 meeting, Defendant Breen had a sign-in sheet, and made the meeting attendees write their names and addresses.

90. At the meeting ICCMW members explained to the Defendant Breen the recent Muslim population growth in Colonial Heights. They also explained CHAT's agenda against ICCMW. Defendant Breen stated that he was aware that traffic was not a problem for the proposed Mosque. He acknowledged that he was aware of a parking agreement with the St. John's Episcopal Church.

91. Upon recommendation from the Landmark Preservation Board, the designation was placed before the Real Estate Committee of the Yonkers City Council for discussion. The Real Estate Committee is made up of five Council Members, three Republicans and two Democrats. A public hearing was held on May 17, 2016.

92. At the hearing both CHAT and ICCMW made their presentation and arguments before the Real Estate Committee. However, Defendant John Larkin, the Chair of the Real Estate Committee, limited the information presented to only information regarding the historical significance of the property and the landmark criteria. He did not allow any discussion or reference of the evident Islamophobia at play. The Real Estate Committee did not review any of the material submitted, nor discuss the merits of the material from both sides.[2]

[2] The proceedings had gone into the night, and the City Council requested an adjournment. ICCMW, argued that they had presented all the evidence they had, and so had CHAT. They saw no need for an adjournment for more presentations as all relevant evidence had been submitted to the Real Estate Committee of the City Council. However, their refusal to consent to the adjournment request was limited to a second hearing for presentation of evidence, it was not a refusal to give the Real Estate Committee additional time to consider the material presented to it. Nor was it a refusal to give the Real Estate

93. At the conclusion of the hearing, the Real Estate Committee took a vote on the designation. The Vote was divided along political party lines, with all Republicans approving the Designation and all Democrats opposing it. The Real Estate Committee approved the designation by a 3/2 vote, and recommended the matter to the Rules Committee of the Yonkers City Council.

94. The Rules Committee, which is comprised of all Seven City Council Members, with Republicans as the majority (four Republicans and three Democrats), without reviewing the submitted material and conducting further research on the validity of the application took a vote on the designation. The Rules Committee recommended the landmark designation to the entire City Council for final approval. The Rules Committee vote was also divided along political party lines in a 4/3 vote, with all Republicans voting to designate and all Democrats voting against the designation.

95. Upon recommendation from the Rules Committee of the Yonkers City Council, the matter was next heard at another public hearing before the full City Council on May 24, 2016. At the May 24, 2016, hearing Democratic Council Member Christopher Johnson gave a speech warning about Islamophobia, and said Islamophobia should not be the guide for the City Council's decision.

96. At the May 24, 2016 hearing before the City Council, ICCMW member Janish Rahim, had a neighbor confess to him, that Terry Lucadamo from CHAT had shown the neighbors a picture of a Mosque and stated that it was the structure ICCMW intended to build on the property, which will change the characteristic of the neighborhood.

Committee additional time to further deliberate the matter. Knowing the anti-Muslim atmosphere towards them, ICCMW was worried that the Real Estate Committee's decision would be based on political pressure and not the merit. ICCMW's fear ultimately became a reality.

97. The Council Members voted to approve the landmark designation. The vote was divided along party lines again with all Republicans voting to designate and all Democrats voting against the designation.

98. The landmark designation was presented to the Mayor for final approval or veto. At the request from the Mayor, a meeting was held with him on May 25, 2016. Present at the meeting were ICCMW members and their supporters. They recounted to the Mayor some the proceedings before the Real Estate Committee, the Rules Committee and the entire City Council. They told the Mayor about Defendant Larkin's control of the process, and his failure to address the obvious anti-Muslim rhetoric that was present at the May 17, 2016 hearing.

99. The President of WCAI presented the Mayor with three letters in support of ICCMW's property not being landmarked. One of the letters was from a Bishop of the Episcopal Church supporting ICCMW's Mosque. The second was from the Roman Catholic Archdiocese of New York, Fr. Brian E. McWeeney, Director of Ecumenical and Interreligious Affairs, supporting the Muslim community and urging the Mayor to oppose/veto the landmark designation. The third letter was from WCAI, expressing support towards the Muslim population in the City of Yonkers.

100. Upon information and belief, the May 25, 2016, meeting with Defendant Mayor Spano had no purpose. The Mayor had already made his decision before the meeting. Information that Defendant Mayor Spano intended to approve the landmark designation had leaked out well before the Mayor approved the designation.

101. The Mayor signed the Resolution designating ICCMW as a landmark on May 27, 2016. However, on May 25, 2016, while some ICCMW members were meeting with the Mayor, Plaintiff Arshad Shariff was observing an interview being conducted by News 12, Westchester

reporter Ty Milburn. The interview was about the City Council's vote to designate ICCMW's property as a landmark. In the course of the interview Mr. Milburn said that he had already spoken with the Mayor's office and had received confirmation that ICCMW's property will be landmarked.

102. Upon information and belief, Defendant Mayor Spano did not review of the City Council proceedings for accuracy and lack of bias before arriving at his decision. The Mayor perpetrated the discriminatory attitude towards ICCMW by approving the landmark designation without legal basis, relying only on the Planning Boards' January 13, 2016 Recommendation, that states - there are enough religious institutions and the designation would not burden ICCMW. Defendant Mayor Spano, who is also a resident of Colonial Heights, perpetuated the discrimination against ICCMW, because he too did not want a Mosque with its religious characteristics in his neighborhood.

103. The landmark designation arbitrarily targeted ICCMW. The City of Yonkers and its officials ratified and condoned the determination and the campaign CHAT led to preclude the religious use of the property because the ICCMW intended to build a Mosque. This conduct is discriminatory and imposes a substantial burden on Plaintiffs' right to the free exercise of their religion in violation of the U.S. Constitution, New York State Constitution, New York State Human Rights Law and the Religious Land Use and Institutionalized Persons Act of 2000.

COUNT I

Violation of the United States Constitution
Free Exercise of Religion: First and Fourteenth Amendments
(42 U.S.C. § 1983)

104. Paragraphs 1 through 103 are incorporated by reference as if set forth fully herein.

105. The First Amendment of the United States Constitution, as incorporated through the Fourteenth Amendment, prohibits a state or any political subdivision thereof from prohibiting the free exercise of religion (the "Free Exercise Clause").

106. In committing the acts alleged above, the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican Council Members, Westchester Legislators Minority Whip, and other City officials were acting under color of state law.

107. The actions of the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials have violated and continue to violate Plaintiffs' rights under the Free Exercise Clause by (1) imposing a substantial burden upon the religious exercise of Plaintiffs, (2) by intentionally and in violation of 42 U.S.C. § 1983 discriminating against Plaintiffs on the basis of religious belief and (3) by treating religious assemblies and institutions on less equal terms as nonreligious assemblies and institutions.

108. A substantial burden has been imposed by discriminating and targeting Plaintiffs for disfavor by designating ICCMW's property as a landmark. The property was designated to deny Plaintiffs' right to establish a Mosque bearing relevant religious character - a permitted use consistent with existing zoning laws in Colonial Heights.

109. The substantial burden has been imposed upon Plaintiffs' religious exercise without a compelling government interest.

110. Plaintiffs have suffered and continue to suffer irreparable harm, damage and injury as a result of the improper actions of the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials.

111. Plaintiffs are entitled to a declaratory judgment that the landmark designation and Defendants' actions have violated their First Amendment rights and that the designation should be annulled.

112. Plaintiffs are entitled to injunctive relief prohibiting Defendants from enforcing the landmark designation.

113. Defendants are liable in damages to Plaintiffs in an amount to be determined at trial.

COUNT II
Violation of the New York Constitution
Free Exercise of Religion: Article 1 § 3
(N.Y. Const. art. 1, § 3)

114. Paragraphs 1 through 113 are incorporated by reference as if set forth fully herein.

115. In committing the acts alleged, above Defendants, by their acts, have acted under color of law and have conspired and continue to conspire, to breach Plaintiffs right as guaranteed under Article I, § 3 of the New York Constitution.

116. New York Constitution Article I, § 3 guarantees the right to free exercise of religion.

117. Defendants' actions as set forth above have deprived Plaintiffs of their rights of free exercise of religion by imposing a substantial burden upon the religious exercise.

118. Defendants have intentionally discriminated against Plaintiffs on the basis of religious belief.

119. Plaintiffs have suffered and continue to suffer irreparable harm, damage and injury as a result of Defendants actions in violation of N.Y. Const. art. 1, § 3.

120. Plaintiffs are entitled to a declaratory judgment that the landmark designation has violated their rights to the free exercise of religion, and that the designation may not be enforced.

121. Plaintiffs are entitled to injunctive relief prohibiting Defendants from enforcing the landmark designation.

122. Defendants are liable to Plaintiffs for damages in an amount to be determined at trial.

COUNT III
United States Constitution
Fourteenth Amendment (Equal Protection)
(42 U.S.C. § 1983)

123. Paragraphs 1 through 122 are incorporated by reference as if set forth fully herein.

124. The Fourteenth Amendment of the United States Constitution prohibits a state or any political subdivision thereof from denying to any person within its jurisdiction the equal protection of the laws (the "Equal Protection Clause").

125. In committing the acts alleged above, Defendants City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials were acting under color of state law.

126. Defendants by their actions set forth above, have conspired and continue to conspire, have violated and continue to violate Plaintiffs' rights under the Equal Protection Clause by intentionally and in violation of 42 U.S.C. § 1983 (1) treating the Plaintiffs differently than similarly situated persons or entities on the basis of religious belief, (2) discriminating against and targeting Plaintiffs for disfavor, and (3) by land use regulations which constitute a grave interference with fundamental rights.

127. Defendants have sought to use their land use laws to deprive Plaintiffs of equal protection of the law. Among other things, Defendants designated ICCMW's property as a landmark which arbitrarily establishes different standards for Plaintiffs' proposed and future renovations to the property than those that have been applied, and will continue to be applied, to similar proposed land uses by non-Muslim houses of worship and by secular property owners.

128. Plaintiffs have suffered and continue to suffer irreparable harm, damage and injury as a result of Defendants actions in violation of the Equal Protection Clause.

129. Plaintiffs have no adequate remedy at law for the harm and damage caused by Defendants' violation of their constitutional rights.

130. Plaintiffs are entitled to a declaratory judgment that the Defendants' actions and the landmark designation have violated the Plaintiffs' rights under the Equal Protection Clause and that the landmark designation should be annulled.

131. Plaintiffs are entitled to injunctive relief prohibiting Defendants from enforcing the landmark designation.

132. Defendants are liable in damages to Plaintiffs in an amount to be determined at trial.

COUNT IV
New York Constitution
Article 1 § 11 (Equal Protection)
(N.Y. Const. art. 1, § 11)

133. Paragraphs 1 through 132 are incorporated by reference as if set forth fully herein.

134. In committing the acts alleged above Defendants, by their acts, have acted under color of law and have conspired and continue to conspire, in breach of the rights of the Plaintiffs to protect their interests under the law in violation of Article 1 § 11 (providing for equal protection of the laws and prohibiting discrimination in civil rights) of the New York State Constitution.

135. Article I, § 11 of the New York State Constitution provides that "[n]o person shall be denied the equal protection of the laws of this state or any subdivision thereof." Actions taken by the City of Yonkers and its elected officials have sought to restrict Muslims free will to renovate their property. ICCMW's property, a Muslim owned property has received disproportionate amount of attention. Government officials and agents have targeted Plaintiffs based on their religion. Now any renovations to ICCMW's property will be scrutinized more than those on properties not owned by Muslims in Yonkers.

136. Plaintiffs have suffered and continue to suffer irreparable harm, damage and injury as a result of Defendants actions in violation of N.Y. Const. art. 1, § 11.

137. Plaintiffs are also entitled to injunctive relief prohibiting Defendants from enforcing the landmark designation.

138. Defendants are liable to Plaintiffs for damages in an amount to be determined at trial.

COUNT V
Violation of Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) - "Substantial Burdens"
(42 U.S.C. § 2000cc(a))

139. Paragraphs 1 through 138 are incorporated by reference as if set forth fully herein.

140. Section 2(a) of RLUIPA prohibits any government from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly or institution is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

141. Defendants have deprived and continue to deprive Plaintiffs of their rights to free exercise of religion, as secured by RLUIPA, by imposing and implementing a land use regulation, the landmark designation that places a substantial burden on their religious exercise without a compelling governmental interest and without using the least restrictive means of achieving any interest.

142. Plaintiffs have suffered and continue to suffer, irreparable harm, damage and injury as a result of the improper actions of the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials in violation of RLUIPA.

143. Plaintiffs are entitled to declaratory and injunctive relief.

144. Defendants are liable to Plaintiffs for damages in an amount to be determined at trial.

COUNT VI
Violation of Religious Land Use and Institutionalized Persons Act of 2000 - "Nondiscrimination" (42 U.S.C. § 2000cc(b)(2))

145. Paragraphs 1 through 144 are incorporated by reference as if set forth fully herein.

146. Section 2(b)(2) of RLUIPA prohibits any government from imposing or implementing a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

147. Defendants have violated RLUIPA, by imposing and implementing a land use regulation that intentionally discriminates against Plaintiffs on the basis of religion. Among other things, Defendants have arbitrarily designated Plaintiffs property as a landmark thereby establishing more stringent standards for Plaintiffs' proposed Mosque than those that have been applied, and will continue to be applied, to similar proposed land uses by non-Muslim houses of worship.

148. Defendants have discriminated against Plaintiffs on the basis of Plaintiffs religion - Islam. Defendants have discriminated against Plaintiffs on the basis of Plaintiffs religious denomination - Muslims. Such disparate treatment of Plaintiffs' property violates the antidiscrimination provision in Section 2(b)(2) of RLUIPA. 42 U.S.C. § 2000cc(2)(b)(2).

149. Plaintiffs have suffered and to continue to suffer, irreparable harm, damage and injury as a result of the actions of the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials in violation of RLUIPA.

150. Defendants are liable to Plaintiffs for damages in an amount to be determined at trial.

151. Plaintiffs are entitled to declaratory and injunctive relief.

COUNT VII
Violation of Religious Land Use and Institutionalized Persons Act of 2000 - "Equal Terms"
(42 U.S.C. § 2000cc(b)(1))

152. Paragraphs 1 through 151 are incorporated by reference as if set forth fully herein.

153. Section 2(b)(1) of RLUIPA prohibits any government from imposing or implementing a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

154. Defendants have violated RLUIPA, by imposing and implementing a land use regulation, the landmark ordinance in a manner that treats ICCMW's religious assembly or institution on less than equal terms than comparable nonreligious assemblies or institutions, in Colonial Heights.

155. Plaintiffs have suffered and to continue to suffer, irreparable harm, damage and injury as a result of the actions of the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislator Minority Whip, and other City officials in violation of RLUIPA.

156. Defendants are liable to Plaintiffs for damages in an amount to be determined at trial.

157. Plaintiffs are entitled to declaratory and injunctive relief.

COUNT VIII
Religious Land Use and Institutionalized Persons Act of 2000 - "Unreasonable Limitation"
(42 U.S.C. § 2000cc(b)(3)(B))

158. Paragraphs 1 through 157 are incorporated by reference as if set forth fully herein.

159. Section 2(b)(3)(B) of RLUIPA prohibits any government from imposing or implementing a land use regulation that unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

160. When Plaintiffs purchased the property for the Mosque they purchased it in an area where use as a house of worship is permitted.

161. Defendant Planning Board January 13, 2016 Recommendation, violates Plaintiffs freedom of religion. The Recommendation noted that the property is located in an area with a mix of residential and places of worship. It further noted that with three other places of worship in the area and landmarking Plaintiffs' property will have no effect on the community. This recommendation discriminates against a Mosque. The three other places of worship are not Mosques.

162. The Recommendation discriminates against ICCMW's property (based on religious denomination - Islam) as against the other places on worship in the community. It also treats ICCMW's property (a religious assembly or institution) on less than equal terms with other properties (nonreligious assembly or institution) in the community.

163. Fortified by this discriminatory recommendation, and pressure from Defendant Burrows, and anti-Muslim animus from CHAT, Defendant Landmark Preservation Board unanimously voted and recommended designation of ICCMW's property as a landmark.

164. Defendant Landmark Preservation Board recommendation was discriminatory. It disregarded the characteristics required under § 45-2 of the City of Yonkers Landmark Ordinance to designate a property as a landmark, instead used the aesthetics of the property as a pretext to designate the property as a landmark.

165. Defendants Liam J. Mclaughlin, Dennis Shepherd, Mike Breen, and John Larkin acted arbitrarily and capriciously when they accepted the tainted recommendation from the Landmark Preservation Board. Defendant Breen in particular had firsthand knowledge of the bias behind CHAT's application, following his May 3, 2016 meeting with his constituents and the Plaintiffs.

166. Defendants Liam J. Mclaughlin, Dennis Shepherd, Mike Breen, and John Larkin, also acted arbitrarily and capriciously when they voted to designate ICCMW property as a landmark, despite the evident anti-Muslim rhetoric at both the May 17, 2016 and the May 24, 2016 hearings.

167. Defendants Liam J. Mclaughlin, Dennis Shepherd, Mike Breen, and John Larkin, further acted arbitrarily and capriciously when they voted to designate ICCMW property as a landmark, without reviewing and evaluating in greater detail all material provided to them at the May 17, 2016 Real Estate and Rules Committee hearings.

168. Due to Defendants Liam J. Mclaughlin, Dennis Shepherd, Mike Breen, and John Larkins' arbitrary and capriciously conduct, the City Council failed to remand the landmark recommendation report to the Landmark Preservation Board for additional work or information pursuant to the City of Yonkers Landmark Ordinance § 45-5 J(2), or to reject the report and recommendation and refuse to designate the property as a landmark, pursuant to § 45-5 J(3) of the Ordinance.

169. Defendant Mayor Spano acted arbitrarily and capriciously when he ratified the bias against Plaintiffs by approving the landmark designation.

170. Defendant Mayor Spano acted arbitrarily and capriciously when he said that he found no indication of an error of judgment, procedure, or consideration of the facts presented in the decisions issued by both the Landmark Preservation Board as well as the City Council

171. Defendant City of Yonkers is liable for the arbitrary and capricious conduct of its agencies, the Landmark Preservation Board, and the Planning Bureau.

172. Defendant City of Yonkers is also liable for the arbitrary and capricious conduct of the City Council and office of the Mayor and for the discriminatory Resolution landmarking ICCMW's property. Resolution No. 64-2016.

173. In accepting, recommending and voting on CHAT's discriminatory landmark application, the Landmark Preservation Board, the Planning Board, the City of Yonkers, the Mayor of Yonkers, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials perpetuated the discrimination, and animus towards Muslims in Colonial Heights. Defendants' actions were arbitrary and capricious; therefore the Landmark Resolution should be nullified.

174. The Plaintiffs property is very old and in desperate need renovations, both internal and external. However, the Landmark designation restricts any renovations to the exterior of the property.

175. Landmark designation in City of Yonkers, Westchester County, New York is subject to the Landmark Ordinance law. The City of Yonkers because of their blind discriminatory intent to target ICCMW's application failed to follow the basic requirements of § 45-2 of the Ordinance, which provides the requisite characteristics to landmark a property.

176. The City of Yonkers by designating Plaintiffs property as a landmark substantially burdens their right to a Muslim house of worship, bearing all relevant Islamic characteristics, both internally and externally. The land mark designation imposes land use regulations that unreasonably limits Plaintiffs' religious structures in violation of 42 U.S.C. § 2000cc(b)(3)(B).

177. Plaintiffs have suffered and to continue to suffer, irreparable harm, damage and injury as a result of the actions of the City of Yonkers, Landmark Preservation Board, Planning Board, Mayor, Republican City Council Members, Westchester Legislators Minority Whip, and other City officials in violation of RLUIPA.

178. Defendants are liable to Plaintiffs for damages in an amount to be determined at trial.

179. Plaintiffs are entitled to declaratory and injunctive relief.

COUNT IX
Violation of New York Law Against Discrimination
New York Civil Rights Law § 40-c

180. Paragraphs 1 through 179 are incorporated by reference as if set forth fully herein.

181. The Civil Rights Law of the State of New York, Section 40-c provides for equal protection of the laws and prohibits discrimination based on religion.

182. The Defendants, by their acts, have conspired under color of law and continue to conspire to abridge the rights of Plaintiffs to be free from discriminatory land use regulations, and be free to have a house of worship bearing all relevant religious characteristics, as protected under Section 40-c(1) and (2) of the New York Civil Rights Law.

183. As a result of Defendants' conduct, Plaintiffs have suffered and continue to suffer, irreparable harm, damage, and injury in violation of New York Civil Rights Law § 40-c.

184. Plaintiffs are entitled to declaratory and injunctive relief declaring that the Landmark Resolution void and to damages in an amount to be determined at trial.

COUNT X
New York CPLR Article 78 Proceeding

185. Paragraphs 1 through 184 are incorporated by reference as if set forth fully herein.

186. Plaintiffs have commenced this action within the time limits required by the New York Civil Practice Law and Rules for challenging actions or decisions by a body or officer, 26 N.Y. C.P.L.R. 217(1). In that less than four months have passed since the vote by the Mayor of the City of Yonkers approving the land mark designation on May 27, 2016. Further less than four months have passed since the Resolution designating ICCMW's property was signed by all relevant parties on May 24, 2016, May 27, 2016, and May 31, 2016. Also less than four months have passed since the Resolution designating ICCMW's property was filed with the Clerk of the City of Yonkers on June 1, 2016.

187. The Resolution designating ICCMW's property as a landmark, and filed with the Clerk of the City of Yonkers on June 1, 2016, must be annulled pursuant to New York's Civil Practice Law and Rules, § 7803, subparagraphs 2, 3 and 4. The said Resolution/determination was rendered in excess of jurisdiction, was affected by an error of law, and is not supported by substantial evidence, in that - the landmark designation was arbitrary and capricious.

188. As a result of Defendants' conduct, Plaintiffs have suffered and continue to suffer, irreparable harm, damage, and injury.

189. Plaintiffs are entitled to declaratory and injunctive relief declaring that the Landmark Resolution void, and to damages in an amount to be determined at trial.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

a. Enjoining Defendants from enforcing or endeavoring to enforce the Resolution designating ICCMW's property as a Landmark, Resolution No. 64-2016.

b. Declaratory judgment declaring Resolution No. 64-2016 void ab initio,

c. Declaratory judgment declaring Defendants' actions and Resolution No. 64-2016 unconstitutional and otherwise violative of Plaintiffs' federal and state constitutional and statutory rights;

d. Granting a mandatory injunction against any enforcement or effect of Resolution No. 64-2016;

e. Awarding Plaintiffs compensatory damages against Defendants, and in favor of Plaintiffs as the Court deems just for the loss of Plaintiffs' free exercise of religion, deprivation of Plaintiffs' right to equal protection and due process under the laws, and expenses occurred by Plaintiffs and caused by Defendants' actions in an amount to be determined at trial, but in no event less than $25,000,000;

f. Awarding Plaintiffs the costs, disbursements, and attorneys' fees incurred in connection with this action pursuant to 42 U.S.C. § 1988; and

g. Awarding Plaintiffs such other and further relief as this Court deems just and proper.

DEMAND FOR JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury in this action of all issues so triable.

Dated: September 21, 2016

New York, NY

Respectfully submitted,

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